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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,009	06/26/2003	Joseph L. Dvorak	CE11363JI250	4950

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Larry G. Brown
Motorola, Inc.
Law Department
8000 West Sunrise Boulevard
Fort Lauderdale, FL 33322

EXAMINER	
BROWN, VERNAL U	
ART UNIT	**PAPER NUMBER**
2635	

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/607,009	DVORAK, JOSEPH L.	
	Examiner	Art Unit	
	Vernal U. Brown	2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 April 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *11* is/are allowed.

6)☒ Claim(s) *1-5,10,,12-14,16-17* is/are rejected.

7)☒ Claim(s) *6-9 and 15* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to communication filed on April 29, 2005.

Response to Amendment

The examiner has acknowledged the amended claims 1, 13, and the addition of claim 17.

Response to Arguments

Applicant's arguments filed April 29, 2005 have been fully considered but they are not persuasive.

Regarding applicant's argument regarding the reference of Filo and Peterson, III, the reference of Filo is relied upon for teaching a wearable device using a biometric to provide biometric authentication to the user (col. 7 lines 11-15, col. 10 lines 35-45) and the reference of Peterson. III is relied upon for teaching the art of embedding a wearable device into a garment (paragraph 0022)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 5, 10, 12-13, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filo et al. US Patent 6215498 in view of Peterson, III US Patent Application 2002/0145849.

Regarding claims 1 and 10, Filo et al. teaches a system for preventing unauthorized use of a wearable device (computer) using a biometric reader measuring a biometric characteristic and provides authentication to the user (col. 7 lines 11-15, col. 10 lines 35-45). Filo et al. is however silent on teaching the device is embedded within a garment. Peterson, III in an art related Wearable Computer and Garment System teaches a computer embedded in a garment (paragraph 0022) in order to allow the computer to be transported easily without been cumbersome.

It would have been obvious to one of ordinary skill in the art for the device to be embedded in a garment in Filo et al. as evidenced by Peterson, III because Filo et al. suggests preventing the unauthorized use of a wearable device and Peterson III, teaches embedding a device in a garment in order to make the device easier to be transported.

Regarding claim 5, Filo et al. teaches a system for preventing unauthorized use of a wearable device (computer) using a biometric reader measuring a biometric characteristic and provides authentication to the user (col. 7 lines 11-15, col. 10 lines 35-45). Filo et al. also teaches the use of fingerprint as a biometric sample (col. 10 lines 38-41), which inherently include a fingerprint reader.

Regarding claim 12, Filo et al. teaches a system for preventing unauthorized use of a device by identifying the user (col. 10 lines 35-39). Filo et al. teaches authentication of the user using the biometrics of the user (col. col. 10 lines 35-45), authentication of the user inherently includes an authentication unit. Filo et al. also teaches a control section 200 which control the operation of the device and the user is allowed to operate the device after user's identification is verify (col. 10 lines 35-45) and the controller section is therefore activated based of the

authentication process and further implying the transmission of the authorizing signal. Filo et al. also teaches the device (42) is wearable (col. 7 lines 13-14) but is silent on teaching the device is embedded in a garment. Peterson, III in an art related Wearable Computer and Garment System teaches a computer embedded in a garment in order to allow the computer to transported easily without been cumbersome.

It would have been obvious to one of ordinary skill in the art for the device to be embedded in a garment in Filo et al. as evidenced by Peterson, III because Filo et al. suggests preventing the unauthorized use of a wearable device and Peterson III, teaches embedding a device in a garment in order to make the device easier to be transported.

Regarding claims 13 and 16-17, Filo et al. teaches a method for preventing unauthorized use of a device by identifying the user (col. 10 lines 35-39). Filo et al. teaches measuring a biometric characteristic and using the measured characteristic to determine the identity of the user (col. col. 10 lines 35-45) and the user is authorized to operate the device after verifying the user's identity and further implying the transmission of the authorizing signal. Comparing the measured biometric characteristic with at least one stored biometric sample to determine if the measured biometric characteristic is from an authorized user represents the standard process for verifying a biometric measurement. Filo teaches the fingerprint reader (scanner) is a part of the authentication system (col. 10 lines 38-42). Filo et al. also teaches the device (42) is wearable (col. 7 lines 13-14) but is silent on teaching the device is embedded in a garment. Peterson, III in an art related Wearable Computer and Garment System teaches a computer embedded to allow the computer to be transported easily without been cumbersome.

It would have been obvious to one of ordinary skill in the art for the device to be

embedded in a garment in Filo et al. as evidenced by Peterson, III because Filo et al. suggests preventing the unauthorized use of a wearable device and Peterson III, teaches embedding a device in a garment in order to make the device easier to be transported.

Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filo et al. US Patent 6215498 in view of Peterson, III US Patent Application 2002/0145849 and further in view of Catalano et al. US Patent 6766040.

Regarding claims 2-3, Filo et al. teaches a system for preventing unauthorized use of a wearable device (computer) using a biometric reader measuring a biometric characteristic and provides authentication to the user (col. 7 lines 11-15, col. 10 lines 35-45) but is not explicit in teaching the authentication unit comprises a database for storing at least one authorized biometric sample and wherein said authentication unit compares said measured biometric characteristic with said authorized biometric samples when said authentication unit receives said measured biometric characteristic from said biometric reader. Catalano et al. in an art related biometric system teaches a database for storing at least one authorized biometric sample and wherein said authentication unit compares said measured biometric characteristic with said authorized biometric samples when said authentication unit receives said measured biometric characteristic from the biometric reader (col. 6 lines 11-21) in order to verify the biometric sample.

It would have been obvious to one of ordinary skill in the art to have a database for storing at least one authorized biometric sample and wherein said authentication unit compares

said measured biometric characteristic with said authorized biometric samples when said authentication unit receives said measured biometric characteristic from said biometric reader in Filo et al. in view of Peterson, III as evidenced by Catalano et al. because Filo et al. suggests preventing unauthorized use of a wearable device (computer) using a biometric reader to measure a biometric characteristic and provides authentication to the user and Catalano et al. teaches a database for storing at least one authorized biometric sample and wherein said authentication unit compares said measured biometric characteristic with said authorized biometric samples when said authentication unit receives said measured biometric characteristic from the biometric reader in order to verify the biometric sample.

Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filo et al. US Patent 6215498 in view of Peterson, III US Patent Application 2002/0145849 and further in view of Hamid et al. US Patent 6848052.

Regarding claims 4 and 14, Filo et al. in view of Peterson, III teaches the use of a biometric system to verify the identity of an individual but is silent on teaching transceiver of the biometric reader transmits measured biometric characteristic to the transceiver of the authentication unit over a wireless communications link. Hamid et al. in an art related portable biometric device teaches biometric reader with a wireless transceiver for transmitting biometric data (col. 4 lines 12-15) in order to enable operation of a device based on the biometric data transmitted.

It would have been obvious to one of ordinary skill in the art to have a transceiver of the biometric reader transmits measured biometric characteristic to the transceiver of the authentication unit over a wireless communications link in Filo et al. in view of Peterson, III as

evidenced by Hamid et al. because Filo et al. in view of Peterson, III suggests the use of a biometric system to verify the identity of an individual and Hamid et al. teaches biometric reader with a wireless transceiver for transmitting biometric data in order to enable operation of a device based on the biometric data transmitted.

Allowable Subject Matter

Claims 6-9 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 6-9 and 15, the prior art of record fail to teach or suggests the biometric reader is incorporated in a garment opening mechanism and the garment opening mechanism is a zipper.

Claim 11 is allowed.

Regarding claim 11, the prior art of record fail to teach or suggests a biometric reader incorporated in a garment opening mechanism.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U. Brown whose telephone number is 571-272-3060. The examiner can normally be reached on 8:30-7:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vernal Brown
August 2, 2005

EDWIN C. HOLLOWAY III
PRIMARY EXAMINER